

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

NATHANIEL BROOKS, JR.

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CIVIL ACTION

v.

MR. GEORGE ZANIC

NO. 14-7111

FILED

JAN 13 2015

MICHAEL KINE Clerk
By _____ Dep. Clerk

MEMORANDUM

O'NEILL, J.

JANUARY 13, 2015

Plaintiff Nathaniel Brooks, Jr., a prisoner at the Chester County Prison, filed this action against George Zanic, the President Judge of the Huntingdon County Court of Common Pleas. Plaintiff also filed a motion to proceed *in forma pauperis*. For the following reasons, the Court will grant plaintiff leave to proceed *in forma pauperis* and dismiss the complaint as legally frivolous.

Plaintiff's claims are based on criminal proceedings that are pending against him in Huntingdon County, over which President Judge Zanic is presiding. *Commonwealth v. Brooks*, Docket No. CP-31-CR-0000295-2014 (Huntingdon Cnty. Ct. of Common Pleas). Plaintiff was charged with indecent exposure, open lewdness, and disorderly conduct. In his complaint in the instant action, plaintiff appears to be asserting that he is not guilty of those charges. He also takes issue with the fact that his prior convictions for indecent exposure have been raised in the course of his recent criminal proceeding even though he claims was not guilty of those prior charges. Additionally, plaintiff asserts that President Judge Zanic made several improper rulings in the course of his criminal case. The Court understands plaintiff to be asserting constitutional claims against President Judge Zanic pursuant to 42 U.S.C. § 1983.

The Court will grant plaintiff leave to proceed *in forma pauperis* as it appears he is incapable of paying the filing fee. As plaintiff is proceeding *in forma pauperis*, the Court must dismiss his complaint if it is frivolous. See 28 U.S.C. § 1915(e)(2)(B)(i). A complaint is frivolous if it “lacks an arguable basis either in law or in fact,” *Neitzke v. Williams*, 490 U.S. 319, 325 (1989), and is legally baseless if “based on an indisputably meritless legal theory.” *Deutsch v. United States*, 67 F.3d 1080, 1085 (3d Cir. 1995). As plaintiff is proceeding *pro se*, the Court must construe his allegations liberally. *Higgs v. Att’y Gen.*, 655 F.3d 333, 339 (3d Cir. 2011).

Judges are entitled to absolute immunity from civil rights claims that are based on acts or omissions taken in their judicial capacity, so long as they do not act in the complete absence of all jurisdiction. See *Stump v. Sparkman*, 435 U.S. 349, 355-56 (1978); *Azubuko v. Royal*, 443 F.3d 302, 303-04 (3d Cir. 2006) (per curiam). Here, it is apparent that plaintiff’s claims against President Judge Zanic are based on acts the Judge took in his judicial capacity while presiding over plaintiff’s criminal case. Accordingly, the Court will dismiss the complaint as legally frivolous because President Judge Zanic is entitled to absolute judicial immunity. Plaintiff will not be given leave to amend because amendment would be futile. See *Grayson v. Mayview State Hosp.*, 293 F.3d 103, 112-13 (3d Cir. 2002). An appropriate order follows, which shall be docketed separately.